**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

WRIT PETITION NO. 1573 OF 2001 (M/S)
Old CMWP No. 19565 of 1998

Sate of U.P. through the Competent Authority,
Urban Land Ceiling, Dehradun.

…….. **Petitioner.**

***Versus***

1. District Judge, Dehradun
2. Sri Bhagwan Singh Karki
3. Sri Mahendra Singh Karki,
4. Sri Ravindra Singh Karki,
5. Sri Narendra Singh Karki,
   Sons of Budh Singh,
6. Sri Vijay Singh
7. Sri Dinesh Singh, Sons of late Shyam Singh
8. Sri Kalam Singh,
9. Sri Jaswant Singh,
10. Sri Vishan Singh
11. Sri Vikram Singh,
    Sons of late Inder Singh,
    All residents of village Kandauli, district Dehradun.

…….. **Respondents.**

**Sri Nand Prasad, learned Standing Counsel for State.**

*Dated 24-03-2006*

**Hon'ble B.S. Verma, J.**

By means of the present Writ Petition, the petitioner-State has challenged the judgment an order dated 24-5-1996 passed by the District Judge, Dehradun (respondent no. 1) in Urban Land Ceiling Appeal No. 144 of 1995, Sri Kalam Singh and others vs. State. By the impugned judgment and order ***(Annexure-1 to the writ petition),*** respondent no. 1 allowed the appeal and the order dated 18-9-1986 passed by the Competent Authority was set aside.

Brief facts giving rise to the present writ petition are that in pursuance of the provisions of Section 6(1) of the Urban Land (Ceiling and Regulation) Act ***(in short the Act)***, the landlord filed the statement of properties held by them. Notices were issued to the land- holder and draft statement was issued under

Section 8(3) of the Act proposing land in excess of the exempted limit in their possession to be declared as surplus vacant land and the proceedings were initiated. The original landholder Budh Singh died and he was substituted by his five sons, respondents nos. 2 to 7. The land- holders filed objection. The learned Competent Authority after perusing the material on record came to the conclusion that the landholders who are sons of deceased Budh Singh were possessed of 2226-05 sq.mt. of surplus vacant land after giving the benefit of 2000 sq. mt. land to each of them, the same was deceased as surplus vacant land and passed the impugned judgment and order dated 14-10-1986. Aggrieved by the said order, land holders (contesting respondents) preferred appeal before the District Judge. The learned District Judge after hearing both the parties passed the impugned judgment and order dated 24.5.1996 as mentioned above. Aggrieved by the impugned order, the State has come up before this Court in the Writ Petition.

I have heard learned Standing Counsel for the State and perused the record.

The Act Urban Land (Ceiling and Regulation) Act, 1976 (Act No. 33 of 1976) was repealed by the Central Act No. 15 of 1999. The Legislature of State of U.P. has since adopted the provisions of the Urban Land (Ceiling and Regulation) Act 1999, by a resolution as required by Article 252(2) of the Constitution, which has come into force in Uttar Pradesh on 18-03-1999 and the same are also applicable in the State of Uttaranchal.

Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 provides as under:

> ***"4.Abatement of legal proceedings.-All proceedings relation to any order made or purported to be made under the principle Act pending immediately before the commencement of this***

***Act, before any Court, Tribunal or other authority shall abate;***
***Provided that this section shall not apply to the proceedings relating to Section 11,12,13 and 14 of the principal Act in so far as such proceedings are relatable to the land possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority."***

As stated by the learned Standing Counsel, Sri Nand Prasad, appearing on behalf of the State, no declaration had been published under Section 10(3) of the principal Act, therefore, no question of vesting of the land in the State or taking over possession arises. The effect of the repealing Act on present case is that where for land in dispute, no declaration was published under Section 10(3) of the Act, there is no question of vesting the land in the State or taking over possession of it. The present proceedings have to be abated and are hereby under Section 4 of the Urban Land (Ceiling and Regulation) Report Act, 1999.

The facts of the case are squarely covered by the judgment of the Apex Court in the case of ***"Pt. Madan Swaroop Shrotiya Public Charitable Trust Vs. State of U.P. and others" (2000, AIR, SCW, 1882).***

In view of the above, the Writ Petition has become infructuous and is dismissed as infructuous. Order accordingly.

**(B.S. Verma, J.)**

RCP